IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE SIXTH DAY OF APRIL
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE N.V. RAMANA

WRIT PETITION NO: 30662 of 1998

Between:

T.B.Patients' Welfare Association, Rep. by its President
Dr. Khayyam Khan S/o. Amanullah Khan, R/o. 23-2-3591,
Moghalpura, Hyderabad.

... PETITIONER

AND

The Government of Andhra Pradesh, Rep. by its Secretary,
Health, Medical and Family Welfare Department, Secretariat,
Hyderabad.

...RESPONDENT

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a writ, order or direction more particularly in the nature of Mandamus declaring the action of the respondent in issuing G.O.Ms.No.111, HM & FW (M2) Department, dated 18.3.1996 and the consequential Memo No. 31366/M2/98-2, dated 20.10.1998 as illegal, arbitrary, unjust and violative of Articles-21, 42, 46 and 47 of Constitution of India and issue consequential directions to the respondent not to combine other medical facilities with the Chest Disease Hospital, Hyderabad.

Counsel for the Petitioner: MR.L.RAVICHANDER

Counsel for the Respondent: GP FOR MEDICAL HEALTH & FAMI.WELFARE

The Court made the following:

ORDER:

This writ petition is filed seeking Mandamus declaring the action of the respondent in issuing G.O.Ms.No.111, HM & FW (M2) Dept, dated 18-03-1996 and the consequential Memo No.3166/M2/98-2, dated
20-10-98 as illegal and arbitrary and consequential direction to the respondent not to combine other medical facilities with the chest disease hospital.

2. Heard the counsel for the petitioner and the learned Government Pleader for Medical Health and Family Welfare appearing for the respondents.

3. Petitioner, claiming to be a welfare association, with intent to ensure the welfare of the Tuberculosis patients, states that the Government of Andhra Pradesh, the respondent herein has housed a hospital for chest diseased, known as T.B. Hospital, which has been catering to the needs of the diseased people. It is stated that the Government of Andhra Pradesh issued G.O. Ms. No.11 HM & FW (M2) Department, dated 18-03-1998 seeking to transfer some units of Gandhi Hospital and Osmania General Hospital to the Chest Diseases Hospital on the ground that those hospitals are overcrowded. According to the petitioner, the chest hospital is meant for treating T.B. disease and by allowing shifting of some of the units from other hospitals to the Chest Hospital, the welfare of the T.B. patients would be affected. It is further stated that T.B. Hospital should be situated in a solitary place, and if shifting of some units from other hospitals is allowed, it would have a deteriorating effect on the health of the patients in the General Surgery and Gynecology etc.

4. The Government has filed counter affidavit denying the allegations made. It is stated that even though some of the units are shifted to the T.B. hospital, the T.B. wing of the hospital will continue with existing staff pattern and shifting of some units from Gandhi Hospital will be done along with the staff who are already working in those units and that does not weaken the functioning of the T.B. Hospital. The relevant portion of the counter reads as under. -

" In reply to para-6 it is submitted that Government have issued orders in G.O.Ms.No.111, HM&FW (M2) Department dated 18.3.1996 for conversion of the A.P. Chest Hospital into Government General & Chest Hospital, Erragadda by shifting of one unit from each of (1) General Medicine (2) General Surgery (3) Obstetrics and Gynecology from Gandhi Hospital, Secundrabad to the Government General and Chest Hospital. This decision was taken as there are only two General Hospitals in Twin Cities i.e., Osmania General Hospital in Hyderabad and Gandhi Hospital in Secundrabad. These two hospitals are already overcrowded. The population of twin cities and the surrounding areas upto a radius of 30 Kms. Who come some for treatment in the above two hospitals has increased enormously over the years, and only two teaching General Hospitals cannot cater to the needs of the increasing population. If the A.P. Chest Hospital is strengthened and converted into a General Hospital, the distance that has to be traveled by patients coming from Kukatpally and Patancheru and neighbouring Medak and other districts comes down considerably, which helps them to have a timely treatment. The decision of conversion of the A.P. Chest Hospital has been taken after due examination of the report of an Expert Committee constituted for this purpose. The Committee includes six doctors all of whom are specialists in their respective fields. The Committee considered all the relevant issues before recommending to Government for conversion of the A.P. Chest Hospital into a General Hospital by shifting some units from Gandhi Hospital, Secundrabad. To implement the orders issued in G.O.Ms.No.111, HM & FW (M2) Department Dt.18.3.1996, Government have issued instructions to operate the budget and to take action for shifting of the units from Gandhi Hospital, Erragadda, Hyderabad and for deputation of the required staff from the Gandhi Medical College, Osmania General Hospital, Hyderabad by way of re-deployment in addition to the existing staff of the A.P. Chest Hospital."

5. It is seen from the counter affidavit and the material produced that the Government has constituted a Committee about the conversion of A.P. Chest Hospital into General Hospital by G.O. Ms. No.1002 H.M. and F.W. (M2) Department dated 26-06-1992, comprising eight persons, of whom, six are reputed doctors. The committee has gone into the issue in depth and after taking into consideration the necessity, feasibility, came to a conclusion to shift some of the units from Gandhi Hospital to the A.P. Chest Hospital. The A.P. Chest Hospital is located in 80 acres, and within the same location other institutions have come up or are proposed to be established, like T.B. Centre, Unani Research Centre, Ayurvedic College, State Institute of Family Welfare and Drug Control Department taking away about 26 acres of land

and leaving about 54 acres, for the Chest Hospital campus. This hospital has total bed strength of 670 comprising 510 beds meant for T.B. and Chest diseases and 160 for departments of Cardiology, Cardio-thoracic and ESI Ward.

6. An additional counter affidavit was also filed clarifying the reasons for shifting of the some units to Chest Hospital. The relevant portion reads as under. -

> " It is further clarified that bed strength and inpatients as they are existing in the Chest Diseased Hospital will not be disturbed at all due to the shift. It is further affirmed that the Staff of Doctors and Nurses and others as are serving presently inpatients and outpatients in the Chest Disease Hospitals will not be disturbed at a l l . A copy of the instructions so issued vide Memo.No.34525/M2/98-3 Dated: 15-12-1998 is also enclosed. It is also further clarified and affirmed that the units of medicines and surgery and gyenecology which are to be shifted will be accommodated in separate building existing as well as buildings to be constructed in the open place available within the premises of the said Chest Disease Hospital. Ever if some general patients or emergency patients are to be accommodated within the existing building, protocols for medical segregation which are necessary to stop all possibilities of spread of communicable diseases like the T.B. and H.I.V. virus will be followed as per the Expert advise of Doctors working in the Chest Disease Hospital".

7. The writ petition is filed mainly on a presumption that shifting of some of the units to Chest Hospital, would affect the welfare of the T.B. patients. However, shifting of certain units to the Chest Hospital was a decision taken by the Government, after obtaining a report from a committee comprising of experts in the field of medicine. The said committee, which is an expert body, after considering all the issues, has submitted a report, which cannot be interfered by this Court. The allegation of the petitioner that the shifting of certain units would jeopardize the interest of the T.B. patients cannot be countenanced, for the reason, the Government has clarified in their counter that in the shifting of certain units the bed strength, the intake of inpatients and the existing staff of Doctors and Nurses will not be disturbed. It is further stated that the Government is proposing to construct certain new buildings to accommodate the shifting and would take such steps to prevent the possibilities of spread of communicable diseases.

8. The Government, in its wisdom, taking into consideration the expert opinion, has come to the conclusion that the T.B. hospital has to be converted into general hospital, which is a policy decision taken in the larger interest of the society particularly for the welfare of the diseased people, which does not call for any interference by this Court.

For the fore going reasons, the action of the respondents in shifting certain units of Osmania and Gandhi General Hospital to T.B. Hospital cannot be found fault with. The writ petition fails and it is accordingly dismissed. No costs.

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N.V. RAMANA, J

April 6, 2005

MRR

Copy to:

1. The Secretary, Health, Medical and Family Welfare Department,

Government of Andhra Pradesh, Secretariat, Hyderabad.

2. Two C.C. s to the G.P. for Medical Health and Family Welfare,

High Court Buildings, Hyderabad (OUT)

Two C.D. Copies.